

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

HAZEL ENSLEY,

Plaintiff,

v.

CIVIL ACTION NO. 2:15-cv-09846

C. R. BARD, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

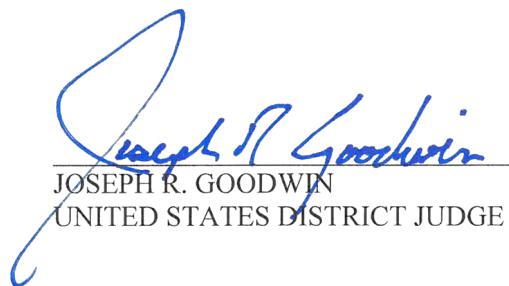
Pending is Defendant C. R. Bard, Inc.'s Motion to Dismiss Complaint with Prejudice or, in the Alternative, Motion for Show Cause Order for Failure to Serve Plaintiff Fact Sheet, filed December 7, 2018. [ECF No. 17]. Plaintiff has not responded to the motion. The court notes that defendant has filed other substantive motions to dismiss for plaintiff's failure to comply with discovery, to which plaintiff has not responded.

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), this case should be dismissed without prejudice for failure to serve a Plaintiff Fact Sheets in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that the Defendant C. R. Bard, Inc.'s Motion to Dismiss Complaint with Prejudice or, in the Alternative, Motion for Show Cause Order for Failure to Serve Plaintiff Fact Sheet [ECF No. 17] is **GRANTED in part to the extent defendant seeks dismissal and DENIED insofar as defendant seeks dismissal with prejudice and other relief.** The court **ORDERS** that this case is dismissed without prejudice and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 25, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE